IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

WP(C).No. 29525 of 2006(M)

PETITIONER:

L.WILSON, CHAIRMAN, MARY MATHA
EDUCATION SOCIETY, OLATHANNI, NEYYATTINKARA,
TRIVANDRUM DISTRICT.

BY ADV. SRI.S.GOPAKUMARAN NAIR

RESPONDENTS:
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1. THE KERALA NURSES & MIDWIVES COUNCIL
REPRESENTED BY ITS REGISTRAR,
RED CROSS ROAD, TRIVANDRUM.

2. INDIAN NURSING COUNCIL,
KOTLA ROAD TEMPLE LANE,
NEW DELHI, REPRESENTED BY ITS SECRETARY.

3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF HEALTH & FAMILY WELFARE,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

4. THE COMMISSIONER OF ENTRANCE
EXAMINATION KERALA STATE,
TRIVANDRUM.

BY ADV. SRI.N.RAGHURAJ, SC, TCMC & KNMC FOR R1
ADV.SRI.NAUSHAD THOTTATHIL FOR R2
GOVERNMENT PLEADER SMT.N.SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of certificate of registration of the petitioner society.

Ext.P2: True copy of the permission order dated 20-1-2006.

Ext.P2(a): True copy of the General order passed by the 1st respondent Government on 13-6-2005.

Ext.P3: True copy of the letter dated 5-5-2006 sent to the Principal of the petitioner Nursing College in this respect by the Secretary of the Indian Nursing Council.

Ext.P4: True copy of the letter dated 30-5-2006.

Ext.P5: True copy of the certificate No.16-2192-IMC, dated 30-5-2006.

Ext.P6: True copy of the NOC dated Nil

Ext.P7: True copy of the application dated 7-6-2006.

Ext.P8 & P8(a): True copy of the orders of WP's

Ext.P9: True copy of the judgement dated 19-6-2006.

Ext.P10: True copy of the letter dated 15-9-2006.

Ext.P11: True copy of the receipt.

Ext.P12: True copy of the appeal petition dated 29-9-2006.

Ext.P13: True copy of the order dated 7-10-2006.

Ext.P14: True copy of the chalans

Ext.P15: True copy of the applictions of registration.

Ext.P16: True copy of the list of faculty members including specialised teachers.

Ext.P17: True copy of the appoint orders of office of all 3 specialised teachers.

Ext.P18: True copy of the joining reports.

Ext.P19: True copy of the order dated 7-4-2004 passed by the State Govt.

Ext/P20: True copy of the list of colleges approved by the state Govt. as per Ext.P2(a)

Ext.P21: True copy of the permission granted by the Rolands Hospital.

Ext.P22: True copy of the judgement in W.P.(C)No.2691/06 dated 31-10-2006.

Ext.P23: True copy of the order NO.G.O.(Rt)No.3229/2006/H & FWD dated 6-11-2006.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of the resolution dated 30-4-2005 passed by the Indian Nursing Council.

// True copy //

P.A. to Judge

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C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)NO.29525 OF 2006

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Dated this the 20th day of November 2006

JUDGMENT

Petitioner is challenging Ext.P10 order issued by the Kerala Nurses and Midwives Council declining approval for commencement of B.Sc. Nursing degree course which is confirmed by Ext.P23 order of the Government in appeal. According to the petitioner, petitioner was granted approval by the Indian Nursing Council vide Ext.P3 for commencement of B.Sc. nursing degree course with a capacity of 40 students from 2006-2007 onwards. Further, petitioner was granted NOC by the Kerala University vide Ext.P6. The grievance of the petitioner is that in spite of Ext.P2 order issued by the Government granting facility to the petitioner to use the Government Taluk Hospital, Neyyattinkara for training the nursing students on payment of Rs.2,000/- per year per student, the first respondent declined approval mainly for want of hospital facility.

2. I heard counsel appearing for the petitioner, separate Standing Counsel appearing for Indian Nursing Council and

Kerala Nurses and Midwives Council and the Government Pleader for respondents 3 and 4.

3. There is no dispute that Indian Nursing Council conducted inspection of petitioner's institution and granted permission for commencement of B.Sc. Degree course in nursing with a strength of 40 students from 2006-2007 onwards. The University has also granted NOC for commencement of the course. What is further required for the commencement of the course is only approval by the first respondent which is declined vide Ext.P10. It is seen from Ext.P10 that the main reason for declining approval is want of hospital facility. Of course the nursing college cannot function without adequate hospital facility for training the nursing students. The Standing Counsel for the first respondent submitted that petitioner does not have own facility and even though affiliate hospital is arranged, it is only a temporary arrangement. The counsel for the second respondent referring to the regulations prescribed under Section 16 of the Indian Nursing Councils Act submitted that School of Nursing should have 200 beded parent/affiliated hospital. In other words,

if there is regular arrangement with an eligible hospital on affiliate basis, then the nursing college is entitled for approval. The only question now to be considered is whether the hospital facility provided by Government i.e., Ext.P2 is sufficient to entitle the petitioner for the approval of the nursing college. It is seen from Ext.P2 that the Government has extended the hospital facilities available in the Taluk hospital, Neyyattinkara for training B.Sc. Nursing students of petitioner's nursing college. It is seen from Ext.P19 order issued by the Government that for availing facilities in Government hospitals, the college will have to pay Rs.2000/- per student per year. In other words, Exts.P2 and P19 go to establish that the petitioner is entitled to enjoy the facilities available in the said Government hospital. There is nothing to indicate from Exts.P2, P2(a) or P1(a) that the hospital facility extended to the petitioner for running nursing college is a short term arrangement or the facility is likely to be withdrawn by Government. In other words, Government appears to feel that the facility extended is not only beneficial to the petitioner but to the public at large because the services rendered by nursing

students will be of immense assistance to the patients. It is also seen from Ext.P2(a) order of the Government that as a matter of policy, Government wants to promote nursing education in the state as the same is a employment oriented course and government wants to render all assistance to set up nursing schools in the state. In the circumstances, Ext.P2 is nothing but an implementation of Ext.P2(a) policy declaration issued by the Government. Eventhough Government Pleader supported Ext.P23, there is nothing stated in Ext.P23 or in the court that government ever thought of withdrawing from the earlier commitment to the petitioner to allow Taluk hospital Neyyattinkara as an affiliate hospital for training nursing students. In the circumstances, the assumption of the first respondent that petitioner does not have a parent or affiliate hospital is absolutely baseless and I reject the same.

4. The next ground for rejection is want of affiliation from Rural and Urban Health Centres, since these health centres are maintained by Government, I feel it is the duty of the government to extend the facilities therein not only to the petitioner's college

but to all the nursing colleges. The other ground for denial is want of own hostel facilities because what is arranged presently by the petitioner is in rented building and not in own building. According to the petitioner, the college will construct hostel building later. In fact, it is pertinent to note that this court in the judgment in Writ Appeal No.2664/05 has explained the initial difficulties for starting new college. Therefore, I feel the first respondent should have taken a realistic approach and accepted rented building as sufficient facility for hostel for the time being. Since petitioner has hostel facilities in rented building there was no justification for denying approval to the petitioner's college on this ground.

5. So far as the 5th ground is concerned, that is availablility of specialised teachers, counsel pointed out that petitioner has appointed qualified teachers as evident from Ext.P16. The first respondent has not looked into the details furnished but can always make it a condition for granting approval and for running the college. In the circumstances, Ext.P10 is not tenable and the same is vacated since Ext.P23 is only a repetition of Ext.P10 it is

also vacated. In the circumstances, writ petition is allowed with direction to the first respondent to accept Ext.P16 and grant approval to the petitioner's college for commencement of B.Sc. Nursing degree course from this academic year onwards. It will be open to the first respondent to inspect the college and ensure that qualified teachers are available in the college after petitioner commences the course. 4th respondent is directed to allot 20 students from the merit quota immediately to petitioners college for starting the course. Petitioner will fill up the balance seats in accordance with the norms and based on eligibility. There will be a direction to the 3rd respondent to provide the facilities in Taluk Hospital, Neyyattinkara for the petitioner to get the nursing students trained therein on collecting the rates prescribed by Government under Ext.P19.

Writ petition is disposed of as above.

C.N.RAMACHANDRAN NAIR, JUDGE

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(Issue copy immediately)